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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/993,904 | 11/27/2001 | Jax B. Cowden | 10005.000130 | 7663 |

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| EXAMINER | |
|---|---|
| DIVECHA, KAMAL B | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2151 | |

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/993,904 | COWDEN ET AL. | |
| | Examiner | Art Unit | |
| | KAMAL B. DIVECHA | 2151 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *13 June 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,2 and 4-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-2, 4-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

## *Response to Arguments*

Claims 1-2 and 4-7 are pending in this application.

Applicant has cancelled claims 3 and 8 in response filed on June 13, 2005.

As per applicant, the invention of claim 1 is straightforward enough not to require a drawing to be understood and it does not require a drawing in the first place (see remarks, page 3). Regardless of the straightforward invention, Examiner believed that the 12 pages of drawings filed on 11/27/2001 in this application were intended for some other application because the drawings do not read on the CLAIMED invention. Examiner therefore withdraws the objection made to drawings in the previous office action because a drawing is not necessary for an understanding of the invention (see MPEP 601.01(f)).

Applicant has amended claim 4 to overcome the objection, the examiner therefore withdraws the objection made to claim 4.

Applicant has amended claims 1-2, 4-7 to overcome the 35 USC 112, second paragraph rejections presented in the non-final office action mailed on 3/15/2005. The Examiner therefore withdraws previous 35 USC 112, second paragraph rejection.

Applicant's arguments with respect to claims 1-2 and 4-7 have been considered but are moot in view of the new ground(s) of rejection.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-2 and 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is considered indefinite because the preamble of the claim does not support the body of the claim i.e. Preamble describes a method for providing product information to a user whereas the body of the claim describes the process of offering a computer program.

Please Note; computer program is not considered a product unless it is tangibly embodied.

Dependent claims 2 and 3-6 are rejected due to their dependency on claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being obvious over Ling (Pub. No.: US 2002/0002538 A1) in view of Shiratori et al. (U. S. Patent No. 5,758,111).

As per claim 1, Ling discloses a method of providing product information to a user, the method to be performed by computer-readable program code running in a computer, the method comprising: determining if the window includes an offer to download a computer program (page 7 block #[0105]-[0106]); identifying the computer program (page 8 block #[0114], [0118], [0120] and fig. 7); displaying a second window in the computer, the second window including third party information about the computer program (pg. 1 block #0003, page 8 block #[0112], page 9 block #[0124] and fig. 8-9), however Ling does not explicitly disclose the process of detecting an occurrence of a first window in the computer.

Shiratori explicitly discloses the process of detecting an occurrence of a window in the computer (see abstract, col. 2 L31-40, col. 14 L51-61). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Ling in view of Shiratori in order to detect an occurrence of a first window in the computer, since Shiratori teaches a process of detecting the presence of at least one window.

One of ordinary skilled in the art would have been motivated because detecting the occurrence of the window would have informed the user with the information about the products and/or computer programs via the Internet which would have enabled consumers to make an informed buying decision.

As per claim 2, Ling discloses the process wherein the first window is launched by a web browser (page 5 block #[0071-0073]).

As per claim 4, Ling discloses the process wherein act of identifying the computer program includes looking up a class identification of the computer program (fig. 7: includes software programs classified in different categories such as rent, purchase etc, therefore the user identifies the computer program by looking up their class identification and based on users demand of the computer program, users selects the needed software or computer program).

As per claim 5, Ling discloses the process wherein the act of identifying the computer program includes consulting a product list (fig. 7 and page 8 block #[0114], [0120]).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being obvious over Ling (Pub. No.: US 2002/0002538 A1) in view of Shiratori et al. (U. S. Patent No. 5,758,111), and further in view of Rowley (U. S. Patent No. 5,999,740).

As per claim 6, Ling in view of Shiratori does not explicitly disclose the process of updating the product list by downloading a new product list from a remote computer to the computer.

Rowley discloses a process of downloading a list of software applications (product list) available from a remote server to the computer (see abstract, col. 1 L30-33, col. 7 L21-25). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Ling and Shiratori in view of Rowley, in order to update the list of products by downloading a new product list from a remote computer in the computer, since Rowley teaches the process of downloading software applications list from a remote server to the computer.

One of ordinary skilled in the art would have been motivated because it would have provided a more convenient mechanism and/or a well-known mechanism for performing updates.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being obvious over Ling (Pub. No.: US 2002/0002538 A1) in view of Shiratori et al. (U. S. Patent No. 5,758,111), and further in view of Barritz et al. (hereinafter Barritz, U. S. Patent No. 6,029,145).

As per claim 7, Ling discloses a computer memory comprising: a product list, the product list including a list of computer programs and a description of each of the computer programs, the description of each of the computer programs comprising third-party information that helps users decide whether they should install a computer program being offered for download (pg. 1 block #0003, page 8 block #[0112], page 9 block #[0124] and fig. 7-9); a user interface manager, the user interface manager including computer-readable program code for displaying third-party information about the computer program offered in the new window and listed in the product list (page 8 block #[0118] to page 9 block #[0124] and fig. 6-9), however, Ling does not explicitly disclose a listener, the listener including computer-readable program code for detecting the opening a new window and a window analyzer, the window analyzer including computer-readable program code for detecting whether the new window is offering a computer program listed in the product list for download.

Shiratori explicitly discloses the process of detecting an occurrence of a window in the computer (read as a listener, see abstract, col. 2 L31-40, col. 14 L51-61). Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to

modify Ling in view of Shiratori in order to include a listener for detecting the opening of a new window, since Shiratori teaches a process of detecting the presence of at least one window.

One of ordinary skilled in the art would have been motivated because detecting the occurrence of the window would have informed the user with the information about the products and/or computer programs via the Internet which would have enabled consumers to make an informed buying decision.

However, Shiratori does not explicitly disclose a window analyzer, the window analyzer including computer-readable program code for detecting whether the new window is offering a computer program listed in the product list for download (by searching the content of the window for certain text strings like "download" or a company/product name, applicant remarks, page 4).

Barritz discloses the process of scanning or reading the files associated with directory entries and searches for copyright statements "COPYRIGHT", "COPR", or "(C)", recognized vendor names, recognized product names, and unique sequences or strings of text conforming to patterns recognized as product codes of particular vendors (read as window analyzer, col. 5 L22 to col. 6 L41). Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Ling in view of Shiratori and further in view Barritz, in order to include a window analyzer for detecting whether the new window is offering a computer program listed in the product list for download simply by searching for text strings, since Barritz teaches the process of searching for strings of text such as product names, download etc.

One of ordinary skilled in the art would have been motivated because it would have enabled important and/or necessary computer programs to be identified and to be provided to the end-users for downloads via the Internet.

***Additional References***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Fawcett, U. S. Patent No. 6,327,617 B1.

b. Levine et al., U. S. Patent No. 5,745,681.

c. Straub et al., U. S. Patent No. 5,905,492.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Flex schedule 8 hr days (10.00am-6.30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KD:

September 15, 2005.

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER